

106TH CONGRESS
2D SESSION

H. R. 5495

To amend the Agricultural Marketing Act of 1946 to enhance dairy markets through dairy product mandatory reporting, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 18, 2000

Mr. SIMPSON (for himself, Mr. KIND, Mr. SHERWOOD, and Mr. PETERSON of Minnesota) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Agricultural Marketing Act of 1946 to enhance dairy markets through dairy product mandatory reporting, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Dairy Market En-
5 hancement Act of 2000”.

6 **SEC. 2. DAIRY PRODUCT MANDATORY REPORTING.**

7 The Agricultural Marketing Act of 1946 (7 U.S.C.
8 1621 et seq.) is amended by adding at the end the fol-
9 lowing:

“Subtitle C—Dairy Product Mandatory Reporting

“SEC. 271. PURPOSE.

“The purpose of this subtitle is to establish a program of information regarding the marketing of dairy products that—

“(1) provides information that can be readily understood by producers and other market participants, including information with respect to prices, quantities sold, and inventories of dairy products;

“(2) improves the price and supply reporting services of the Department of Agriculture; and

“(3) encourages competition in the marketplace for dairy products.

“SEC. 272. DEFINITIONS.

“In this subtitle:

“(1) DAIRY PRODUCTS.—The term ‘dairy products’ means manufactured dairy products that are used by the Secretary to establish minimum prices for Class III and Class IV milk under a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

1 “(2) MANUFACTURER.—The term ‘manufac-
2 turer’ means any person engaged in the business of
3 buying milk in commerce for the purpose of manu-
4 facturing dairy products.

5 “(3) SECRETARY.—The term ‘Secretary’ means
6 the Secretary of Agriculture.

7 **“SEC. 273. MANDATORY REPORTING FOR DAIRY PRODUCTS.**

8 “(a) ESTABLISHMENT.—The Secretary shall estab-
9 lish a program of mandatory dairy product information
10 reporting that will—

11 “(1) provide timely, accurate, and reliable mar-
12 ket information;

13 “(2) facilitate more informed marketing deci-
14 sions; and

15 “(3) promote competition in the dairy product
16 manufacturing industry.

17 “(b) REQUIREMENTS.—

18 “(1) IN GENERAL.—In establishing the pro-
19 gram, the Secretary shall only—

20 “(A)(i) subject to the conditions described
21 in paragraph (2), require each manufacturer to
22 report to the Secretary information concerning
23 the price, quantity, and moisture content of
24 dairy products sold by the manufacturer; and

1 “(ii) modify the format used to provide the
2 information on the day before the date of enact-
3 ment of this subtitle to ensure that the infor-
4 mation can be readily understood by market
5 participants; and

6 “(B) require each manufacturer and other
7 person storing dairy products to report to the
8 Secretary, at a periodic interval determined by
9 the Secretary, information on the quantity of
10 dairy products stored.

11 “(2) CONDITIONS.—The conditions referred to
12 in paragraph (1)(A)(i) are that—

13 “(A) the information referred to in para-
14 graph (1)(A)(i) is required only with respect to
15 those package sizes actually used to establish
16 minimum prices for Class III or Class IV milk
17 under a Federal milk marketing order;

18 “(B) the information referred to in para-
19 graph (1)(A)(i) is required only to the extent
20 that the information is actually used to estab-
21 lish minimum prices for Class III or Class IV
22 milk under a Federal milk marketing order;

23 “(C) the frequency of the required report-
24 ing under paragraph (1)(A)(i) does not exceed
25 the frequency used to establish minimum prices

1 for Class III or Class IV milk under a Federal
2 milk marketing order; and

3 “(D) the Secretary may exempt from all
4 reporting requirements any manufacturer that
5 processes and markets less than 1,000,000
6 pounds of dairy products per year.

7 “(c) ADMINISTRATION.—

8 “(1) IN GENERAL.—The Secretary shall pro-
9 mulgate such regulations as are necessary to ensure
10 compliance with, and otherwise carry out, this sub-
11 title.

12 “(2) CONFIDENTIALITY.—

13 “(A) IN GENERAL.—Except as otherwise
14 directed by the Secretary or the Attorney Gen-
15 eral for enforcement purposes, no officer, em-
16 ployee, or agent of the United States shall
17 make available to the public information, statis-
18 tics, or documents obtained from or submitted
19 by any person under this subtitle other than in
20 a manner that ensures that confidentiality is
21 preserved regarding the identity of persons, in-
22 cluding parties to a contract, and proprietary
23 business information.

24 “(B) RELATION TO OTHER REQUIRE-
25 MENTS.—Notwithstanding any other provision

1 of law, no facts or information obtained under
2 this subtitle shall be disclosed in accordance
3 with section 552 of title 5, United States Code.

4 “(3) VERIFICATION.—The Secretary shall take
5 such actions as the Secretary considers necessary to
6 verify the accuracy of the information submitted or
7 reported under this subtitle.

8 “(4) ENFORCEMENT.—

9 “(A) UNLAWFUL ACT.—It shall be unlaw-
10 ful and a violation of this subtitle for any per-
11 son subject to this subtitle to willfully fail or
12 refuse to provide, or delay the timely reporting
13 of, accurate information to the Secretary in ac-
14 cordance with this subtitle.

15 “(B) ORDER.—After providing notice and
16 an opportunity for a hearing to affected per-
17 sons, the Secretary may issue an order against
18 any person to cease and desist from continuing
19 any violation of this subtitle.

20 “(C) APPEAL.—

21 “(i) IN GENERAL.—The order of the
22 Secretary under subparagraph (B) shall be
23 final and conclusive unless an affected per-
24 son files an appeal of the order of the Sec-
25 retary in United States district court not

1 later than 30 days after the date of the
2 issuance of the order.

3 “(ii) FINDINGS.—A finding of the
4 Secretary under this paragraph shall be set
5 aside only if the finding is found to be un-
6 supported by substantial evidence.

7 “(D) NONCOMPLIANCE WITH ORDER.—

8 “(i) IN GENERAL.—If a person sub-
9 ject to this subtitle fails to obey an order
10 issued under this paragraph after the
11 order has become final and unappealable,
12 or after the appropriate United States dis-
13 trict court has entered a final judgment in
14 favor of the Secretary, the United States
15 may apply to the appropriate United
16 States district court for enforcement of the
17 order.

18 “(ii) ENFORCEMENT.—If the court
19 determines that the order was lawfully
20 made and duly served and that the person
21 violated the order, the court shall enforce
22 the order.

23 “(iii) CIVIL PENALTY.—If the court
24 finds that the person violated the order,
25 the person shall be subject to a civil pen-

1 alty of not more than \$10,000 for each of-
2 fense.

3 “(5) FEES.—The Secretary shall not charge or
4 assess a user fee, transaction fee, service charge, as-
5 sessment, reimbursement fee, or any other fee under
6 this subtitle for—

7 “(A) the submission or reporting of infor-
8 mation;

9 “(B) the receipt or availability of, or access
10 to, published reports or information; or

11 “(C) any other activity required under this
12 subtitle.

13 “(6) RECORDKEEPING.—Each person required
14 to report information to the Secretary under this
15 subtitle shall maintain, and make available to the
16 Secretary, on request, original contracts, agree-
17 ments, receipts, and other records associated with
18 the sale or storage of any dairy products during the
19 2-year period beginning on the date of the creation
20 of the records.

21 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated such sums as are nec-
23 essary to carry out this section.”.

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